



# An Overview of Federal Labor Standards for CDBG Grant Recipients

**Virginia Department of Housing and Community Development (DHCD)  
Program Administration and Assistance Office  
Richmond, Virginia**

**December 4, 2012  
12 Noon – 1 PM**

# Speakers

- **Moderator: Kyle Meyer**  
Community Development Specialist, DHCD  
Richmond, VA
- **Presenter: Elizabeth Boehringer**  
Community Development Specialist, DHCD  
Richmond, VA  
804-371-7065  
[elizabeth.boehringer@dhcd.virginia.gov](mailto:elizabeth.boehringer@dhcd.virginia.gov)

# Webinar Format

- Presentation will last approximately 40 minutes with periodic pauses for Q&A
- Audience members are muted due to the high number of participants (Press \*6 to mute)
- Recording of the webinar will be posted on DHCD's website on the CDBG Training Archive page:  
<http://www.dhcd.virginia.gov/index.php/cdbg-training-archive.html>

# Audio Issues During the Webinar

- For audio, please use the following number 1-866-842-5779.
  
- If you have technical difficulty with the audio or video portions of this webcast, try:
  - Logging off, then logging in again; or
  - Requesting help through the chat box that will appear on your screen

# How to Submit Questions

- Type your questions in the chat box that will appear on your screen during the presentation. Technical questions will be addressed right away; We'll pause and take content questions at designated points during and after the presentation.
- Take the evaluation at the end of the webinar. The link will be displayed in the chat box.

# FLS Brown Bag Webinar Series

Presented over the lunch hour, 12 to 1 p.m.

- January 8 — Project Start-up: What happens before the construction begins
- February 12 — It's All in the Details: Reviewing payroll reports
- March 12 — Tools of the Trade: Logs, registers, and authorizations

# Learning Objectives

- Receive an overview of federal labor standards
- Become aware of common challenges and troubleshooting tips
- Know where to go for resources and questions

# Brief Survey

- Using the survey feature on your Webex webinar screen, please answer the simple survey:

What is your level of knowledge with federal labor standards (FLS)?

- a) I have no knowledge of FLS
- b) I have reviewed FLS for a few projects
- c) I am very experienced with FLS

# Agenda

- FLS laws and definitions
- The 9 key steps of the FLS process
- Common challenges
- Tips & helpful hints
- Q & A

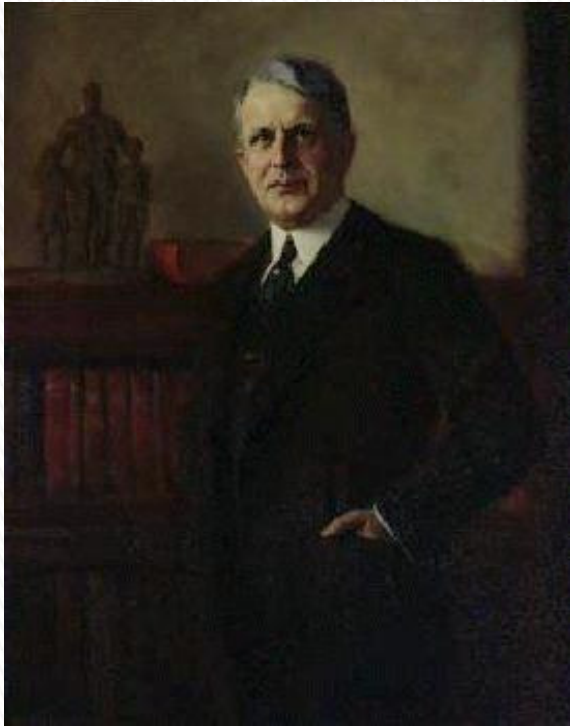
# What are the Federal Labor Standards?

## Davis–Bacon and Related Acts

- Applies to all construction contracts valued at \$2,000 or more
- Construction includes alterations and/or repairs, including painting and decorating
- Requires the payment of prevailing wage rates, including fringe benefits, to all laborers and mechanics, including apprentices, trainees and working foremen

Key Laws

# Who were Davis and Bacon?



Sen. James J. Davis (R-PA)



Rep. Robert L. Bacon (R-NY)

# Key Labor-related Statutory Provisions

## Contract Work Hours and Safety Standards Act of 1962

- Requires "overtime" at a rate of 1 ½ times of a worker's basic rate of pay for all hours worked in excess of 40 hours in a work week
- Time off in lieu of overtime is not allowed

# Key Labor–related Statutory Provisions

## Copeland “Anti–Kickback” Act

- Makes it a federal crime for anyone to use force, intimidation, or threats to force any laborer or worker working on a federally–financed project to give back any part of their wages to which they are entitled
- Requires a signed “Statement of Compliance” certifying workers have received all of their wages

# Wait, There Are Two More

- **Fair Labor Standards Act of 1938**
  - Expands on the definition of overtime
  
- **Portal-to-Portal Act of 1947**
  - Establishes how long someone can file a claim in court that they did not receive prevailing wages or overtime.

# Definitions

- **Contract Compliance Officer (CCO)**
  - The person who is responsible for ensuring compliance with the federal labor standards
  
- **Wage Decision (WD)**
  - A listing of various construction work classifications and the *minimum* wages and fringe benefits that must be paid to anyone performing work in those classifications
  - Established by US Department of Labor for defined geographic areas e.g. county or group of counties, and by various types of construction i.e.; highway, building, residential and heavy

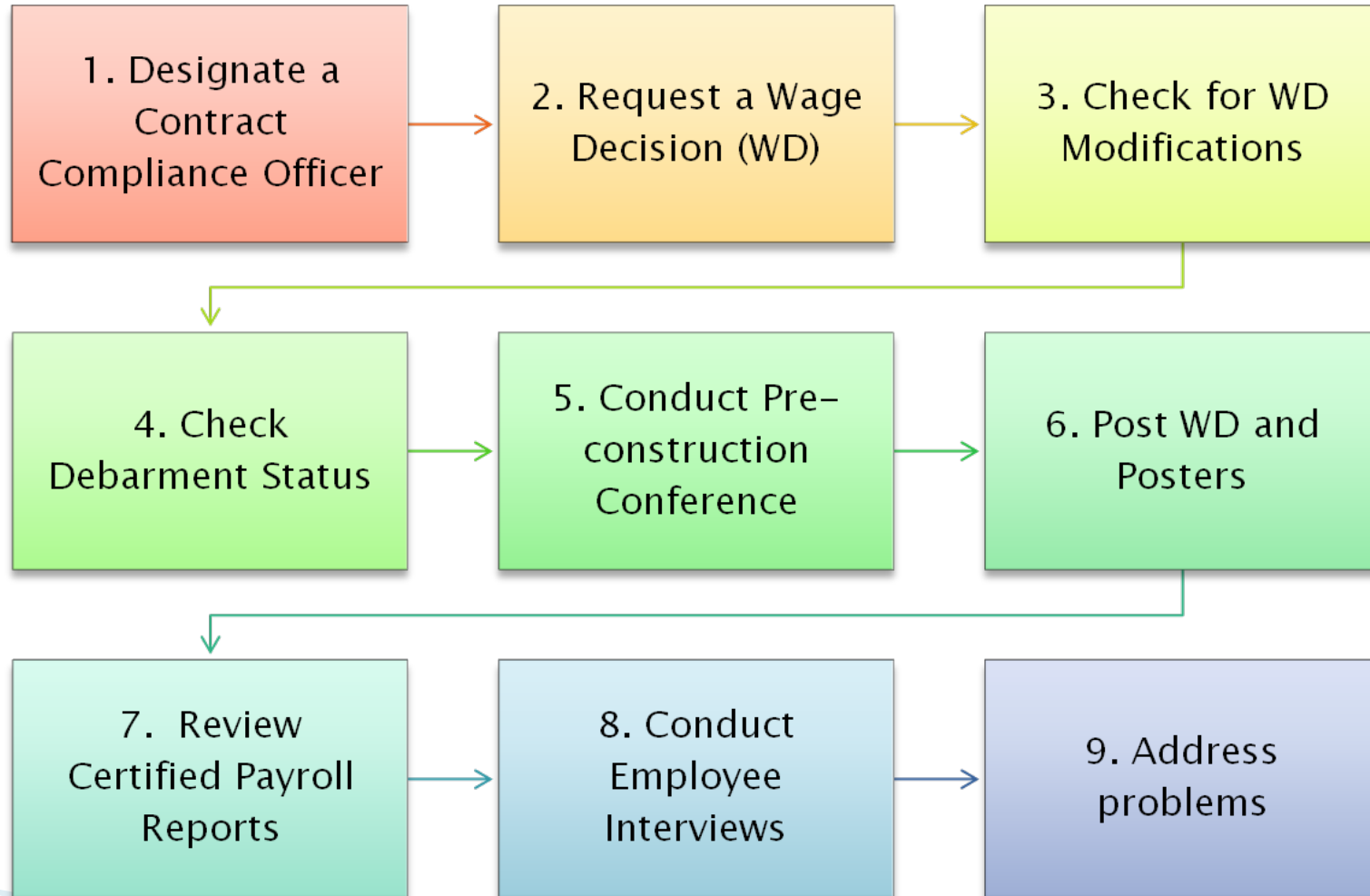
# Definitions

- **Certified Payroll Reports (CPR)**
  - Payroll
  - Statement of Compliance
  
- **Register of Assigned Employees (RAE)**
  - Documents the workers assigned to the project
  - Submitted along with the first CPR
  - Updated only to show changes in worker's job classification and/or wages OR new workers assigned to project
  
- **Monthly Register of Contractor, Subcontractors, and Suppliers**
  - Documents procurements of  $\geq \$10,000$
  - Submitted *monthly* along with the first payroll following the end of the month being reported

*Pop Quiz: Overtime is defined as working over 8 hours in a day*

TRUE or FALSE?

# 9 Key Steps of the Federal Labor Standards Process



## Step 1

# Designate a Contract Compliance Officer

- Identified at the facilitated management session
- Introduced to the general contractor, subcontractors and payroll clerks at the pre-construction conference

## Step 2

# Request Wage Decision (WD)

### □ When?

- Approximately 14 days prior to publishing the Invitation to Bid

### □ How?

- Submit the Wage Rate Request form to your CD Specialist

#### CIG WAGE RATE REQUEST

TO: Brad Belo, Community Rep DATE: 06/05/2009  
FROM: John Hancock, Grant Administrator CIG #: 08-99  
PROJECT NAME: Jena University Heights Comprehensive Proj. ESTIMATED:  
PROJECT LOCATION: Jena University Heights, Rustburg, VA Advertising Date: 06/14/2009  
CITY/COUNTY NAME: Campbell County Bid Opening Date: 07/10/2009

Provide a specific description of ALL construction activities to be bid under this *specific* construction contract.

Activity Type	Quantity	Estimated CDBG Cost	Estimated Non-CDBG Cost	For DHCD Use: (Sewer, Bldg, Hwy, Residential, Heavy)
Sewer:				
Water:	5,000 LF of 6" water line	\$100,000	\$100,000	HEAVY
Laterals:				
Streets:	3,000 LF of roadway & 1,000 LF of sidewalk	\$100,000	\$100,000	HIGHWAY
Housing Rehab &+ Units:				
Facades				
Other:				
Total		\$200,000	\$200,000	

Mail Wage Decision Package to the Following Address:

Name: Pat Henry, P. E. Address: P. O. Box 110, Richmond, VA 23219  
Firm: Franklin & Porter Phone: 804-555-0505

05-16/REV0609

# Step 2

General Decision Number: VA100064 03/12/2010 VA64

Superseded General Decision Number: VA20080064

State: Virginia

Construction Types: Heavy (Heavy and Sewer and Water Line)

Counties: Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Galax\*, Giles, Grayson, Lee, Montgomery, Norton\*, Pulaski, Radford\*, Russell, Smyth, Tazewell, Wise and Wythe Counties in Virginia.

\*INDEPENDENT CITIES

\*INCLUDING THE RADFORD ARMY AMMUNITION PLANT

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)

Modification Number	Publication Date
0	03/12/2010

BOIL0045-002 10/01/2008

	Rates	Fringes
Boilermakers:.....	\$ 30.96	16.87
-----		
PLUM0491-002 06/01/2007		

	Rates	Fringes
Steamfitter.....	\$ 21.66	10.28
-----		
* SUVA1989-003 04/01/1989		

	Rates	Fringes
Carpenters (Excluding Concrete Form Work).....	\$ 7.69	
Cement Mason/Concrete Finisher...	\$ 9.78	3.05
Ironworker (Reinforcing).....	\$ 7.30	
Laborers:		
Pipelayers.....	\$ 7.25	.93
Unskilled.....	\$ 7.25	

Power equipment operators:

Backhoes.....	\$ 7.71
Bulldozers.....	\$ 7.84
Loaders.....	\$ 7.45

Truck drivers.....\$ 7.25

WELDERS - Receive rate prescribed for craft performing

## Step 2

# And Put It in the Bid Documents

- DHCD will issue the wage decision packet, which includes the:
  - Wage decision(s)
  - Federal construction contract inserts
  - FLS-related posers
  - Employee interview forms
- Incorporate the WD and the federal construction contract inserts, which includes the federal labor standards provisions, in bid documents

## Step 2

# Fill in the Poster!

Insert  
CCO's  
contact  
information  
in the box



## EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

### FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

#### PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

#### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

#### ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

#### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

#### PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627



# Questions and Comments?

Use the chat feature to ask questions about what we have covered so far!



## Step 3

# Check for WD Modifications

Call 10 days before bid opening

Issue addendum if modified

Failure can lead to rebidding

## Step 3

# Another Modification Check

- If the contract is not awarded within 90 days of the bid opening, you must verify again if the wage decision has been modified
- If it has been, the modified wage decision must be incorporated into the contract documents

## Step 4

# Check Debarment Status

- Call CD Specialist to receive verbal clearance of the apparent successful low bidder's eligibility to be awarded a contract
- CD Specialist will conduct check and send written confirmation for the files

## Step 5

# Conduct the Pre-construction Conference

- Must be attended by the general contractor, all known subcontractors, their payroll clerks, project engineer, contract compliance officer and grant manager
- Invite the CD Specialist, who will attend schedule permitting

## Step 6

# Post WD and Posters



*Pop Quiz: As long as they are posted, it does not matter where the WD and posters are placed*

TRUE or FALSE?

## Step 7 Review Certified Payroll Reports

- Review weekly
- Initial and date to document review
- Set tone with the first review

## Step 7

# And Request Any Needed Additional Job Classifications

- Required when a required job classification is not listed on the wage decision
- First identified at the pre-construction conference
- Submit additional ones as needed

# Step 8 Conduct Employee Interviews

- Done Monthly
- At least one worker per trade
- At least 25% of the total number of workers
- Working foremen only

## Record of Employee Interview

U.S. Department of Housing  
and Urban Development  
Office of Labor Relations

OMB Approval No. 2501-0009  
(exp. 10/31/2010)

**Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

1a. Project Name <b>Caesars Palace Water</b>			2a. Employee Name <b>Matt Damon</b>		
1b. Project Number <b>#10-99</b>			2b. Employee Phone Number (including area code) <b>276-555-8336</b>		
1c. Contractor or Subcontractor (Employer) <b>Oceans Eleven Construction</b>			2c. Employee Home Address & Zip Code <b>745 Old Wood Way Seven Mile Ford, VA 24354</b>		
3a. How long on this job? <b>1 week</b>			3b. Last date on this job before today? <b>7/18/10</b>	3c. No. of hours last day on this job? <b>10</b>	4a. Hourly rate of pay? <b>8.25</b>
			4b. Fringe Benefits? Vacation Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Medical Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Pension Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		4c. Pay stub? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary <b>Unskilled Laborer</b>					
6. Your duties <b>Flagger, run errands</b>					
7. Tools or equipment used <b>flag, shovel, hammer, handheld radio</b>					
8. Are you an apprentice or trainee? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N			10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N		
9. Are you paid for all hours worked? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N			11. Have you ever been threatened or coerced into giving up any part of your pay? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
12a. Employee Signature <b>Matt Damon</b>			12b. Date <b>7-19-10</b>		
13. Duties observed by the Interviewer (Please be specific.) <b>using flag to stop traffic</b>					
14. Remarks <b>none</b>					
15a. Interviewer name (please print) <b>Tom Cruise</b>			15b. Signature of interviewer <b>Tom Cruise</b>		15c. Date of interview <b>7/19/10</b>
<b>Payroll Examination</b>					
16. Remarks <b>payroll correct</b>					
17a. Signature of Payroll Examiner <b>Johnny Depp</b>			17b. Date <b>8/13/10</b>		

Previous editions are obsolete. Form HUD-11 (08/2004)

Appendix 51: Record of Employee Interview

## Step 9

# Address Problems

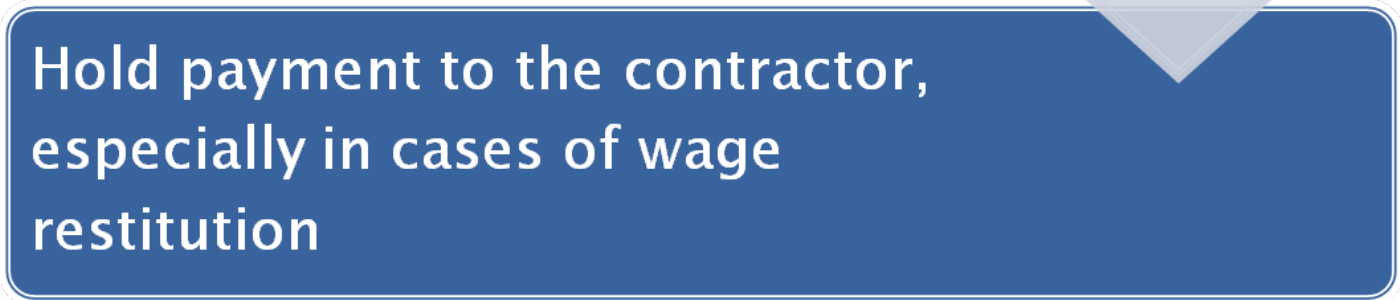
E-mail payroll clerk identifying the problem, resolution and deadline



Issue follow-up letters to contractor



Hold payment to the contractor, especially in cases of wage restitution



# Bottom Line

Regardless of any consultant hired, the Grantee is responsible for ensuring someone is ***actively*** overseeing any and all construction contracts and that contractors are complying with FLS requirements!

# *Shameless Marketing Plug*

Steps 7 through 9 will be  
discussed in greater detail  
during the upcoming  
February webinar “It’s All in  
the Details”

# Common Challenges

- First payroll of general contractor and any subcontractors on site
  - Certified Payroll Report (CPR)
  - Register of Assigned Employees (RAE)
  - Authorization of payroll deductions
  - Additional job classification requests
  
- Weekly from general contractor and any subcontractors on site
  - CPR submitted
  - Review of CPR and cross-reference against that listed on wage decision, RAE and authorizations

# Common Challenges

## ➤ Monthly

- Register of Monthly Contractors, Subcontractors and Suppliers submitted
- Employee interviews conducted
- Cross reference information from interviews against that from CPR, RAE and wage decision,

## ➤ As needed

- RAE updates
- Authorization of payroll deductions
- Additional job classification requests

# Tips and Helpful Hints

- Distribute *Davis–Bacon Labor Standards* to all payroll clerks
- And, keep a copy for your own reference
- Sign up for the mailing list of HUD's Office of Labor Standards at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/labor\\_relations](http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_relations)

# Tips and Helpful Hints

- Use the Construction and Labor Standards Checklist
- Register for the three upcoming brown bag FLS webinars
- When in doubt – contact your Community Development Specialist

# Resources

- Chapter 8 of the *Grant Management Manual*
- DOL Forms
  - [www.dol.gov/whd/programs/dbra/forms.htm](http://www.dol.gov/whd/programs/dbra/forms.htm)
- HUDClips (HUD forms)
  - [www.hud.gov/offices/adm/hudclips/index.cfm](http://www.hud.gov/offices/adm/hudclips/index.cfm)

# Questions and Comments?

Use the chat feature to ask questions and communicate with everyone!



# Thank You for Participating

- For more information:
  - CDBG Training Archives page at [www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)
  - Call your Community Development Specialist,  
(804) 371-7000 or (276) 676-5471
- Please complete the evaluation after the webinar
  - Click on the hyperlink in the chat screen